

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF DELAWARE**

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<b>AFFYMETRIX, INC., a Delaware Corporation,</b>	)
	)
<b>Plaintiff/Counter-Defendant,</b>	)
	)
vs.	)
	)
<b>ILLUMINA, INC., a Delaware Corporation,</b>	)
	)
<b>Defendant/Counter-Plaintiff.</b>	)
	)
	)

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**ILLUMINA'S FIRST NOTICE OF DEPOSITION  
PURSUANT TO FED. R. CIV. P. 30(b)(6)**

In accordance with the provisions of Rules 26 and 30 of the Federal Rules of Civil Procedure, Illumina, Inc. ("Illumina") hereby provides notice that commencing at 9:00 a.m. on November 3, 2005, at the offices of KIRKLAND & ELLIS LLP, 555 California Street, San Francisco, CA 94104-1501, or at such other time and place mutually agreed upon by counsel for the parties, it will take the deposition of Affymetrix, Inc. ("Affymetrix") by oral examination of witness(es) designated by Affymetrix to testify on its behalf as the person(s) most competent to testify concerning the matters listed on attached Attachment A. Pursuant to Federal Rule of Civil Procedure 30(b)(6), the person(s) designated by Affymetrix should be prepared to testify as to such matters known or reasonably available to Affymetrix.

Affymetrix is requested to provide Illumina's counsel, on or before October 27, 2005, a written designation of the names and positions of the officers, directors, managing agents or other persons who are most competent to testify concerning the areas of testimony set forth in Attachment A, and, for each person designated, the matters on which he or she will testify.

The depositions will be taken upon oral examination before an official authorized by law to administer oaths and will continue from day to day until completed. Pursuant to Rule 30(b)(2), testimony of the witness(es) will be recorded by both stenographic means and sound-and-visual means.

You are required to produce the witness(es) at the stated time and place, and are invited to attend to cross-examine.

Dated: October 13, 2005

By: /s/ Mary B. Matterer  
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*Counsel for Illumina, Inc.*

**ATTACHMENT A**

**DEFINITIONS**

Illumina hereby incorporates by reference the Definitions as set forth in Illumina's First Set of Requests for Production, Illumina's Second Set of Requests for Production.

**AREAS OF TESTIMONY**

1. For each of the alleged inventions of the Affymetrix Patents, the conception of the alleged invention including but not limited to when the invention was conceived, the circumstances surrounding the conception, the identity of all persons who were involved with the conception, and the contribution of each of those persons to the conception.

2. For each of the alleged inventions of the Affymetrix Patents, the actual reduction to practice, if any, of the alleged invention including but not limited to when the alleged invention was reduced to practice, the circumstances surrounding the reduction to practice, the identity of all persons who were involved with the reduction to practice, and the contribution of each of those persons to the reduction to practice.

3. For each of the alleged inventions of the Affymetrix Patents, all research, development or other work relating to efforts, if any, actually to reduce to practice the alleged invention including but not limited to the dates of, locations of, and circumstances surrounding any such work, the identity of all persons who were involved with any such work, and the contribution of each of those persons to any such work.

4. For each of the alleged inventions of the Affymetrix Patents, all facts and circumstances relating to the first time the alleged invention was known or used by others in the United States, patented or described in a printed publication anywhere in the world, put into

public use in the United States, offered for sale in the United States, and disclosed to any person not employed by Affymetrix.

5. The identity, location, and authenticity of documents and other tangible things constituting evidence relating to the categories set forth in topics 1 through 4 above.

6. The identity and location of witnesses knowledgeable about the categories set forth in topics 1 through 5 above.

**CERTIFICATE OF SERVICE**

I hereby certify that on the 13<sup>th</sup> day of October, 2005, I caused to be electronically filed the foregoing document, **ILLUMINA'S FIRST NOTICE OF DEPOSITION PURSUANT TO FED. R. CIV. P. 30(b)(6)**, with the Clerk of the Court using CM/ECF which will send notification of such filing to the following:

Jack B. Blumenfeld, Esq.  
MaryEllen Noreika, Esq.  
Morris Nichols Arsh & Tunnell  
1201 Market Street  
Wilmington, DE 19801

Additionally, I hereby certify that on the 13<sup>th</sup> day of October, 2005, the foregoing document was served via facsimile on the following non-registered participants:

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/s/ Mary B. Matterer  
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